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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/554,269	06/29/2000	MANFRED BRAUNER	TPP-30873	2242

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EXAMINER

EGAN, BRIAN P

ART UNIT

PAPER NUMBER

1772

DATE MAILED: 02/26/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

09/554,269

Applicant(s)

BRAUNER, MANFRED

Examiner

Brian P. Egan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: ____

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DETAILED ACTION

Specification

1. The specification is objected to because it fails to properly title the individual sections of the disclosure. Applicant is reminded of the proper format:

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (e) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) BRIEF SUMMARY OF THE INVENTION.
- (g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (h) DETAILED DESCRIPTION OF THE INVENTION.
- (i) CLAIM OR CLAIMS (commencing on a separate sheet).
- (j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Claim Objections

2. Claim 1 is objected to for the misspelling of “molding” in line 3 and “characterized” in lines 3-4 of the claim. Proper correction is required.
3. Claim 3 is objected to for the misspelling of “center” in line 3 of the claim. Proper correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter which the applicant regards as his invention. The phrase “tightly placed” is indefinite. It is unclear how tight “tightly” means. Proper clarification and/or correction is required.
6. Claims 2, 6, and 12-15 are rejected under 35 U.S.C. 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter which the applicant regards as his invention. The phrase “or the like” is indefinite. The phrase “or the like” renders the claims indefinite because the claims include elements not actually disclosed (those encompassed by “or the like”), thereby rendering the scope of the claims unascertainable. See MPEP § 2173.05(d).
7. Claims 3 and 7 are rejected under 35 U.S.C. 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter which the applicant regards as his invention. The phrase “very close to the gravity center line” is indefinite. It is unclear how close “very close” is referring to. Proper clarification and/or correction is required.

8. Claims 3 and 7 are further rejected under 35 U.S.C. 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter which the applicant regards as his invention. The claims state "the wall section is connected to the frame at or very close to the gravity center line of the frame." According to claim 1, there is a resilient portion of the wall section connected to the frame. It is unclear in Claims 3 and 7 whether the wall section is connected to the frame via the resilient portion of the wall section. Proper clarification and/or correction are required.
9. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter which the applicant regards as his invention. The entire claim is indefinite. It is unclear what the "pivot line" is and the thickness of the wall section is indefinite. It is unclear whether the connection between the wall section and the frame is actually in reference to the resilient section or it is the wall section, not including the resilient section, which is thinner than the average thickness of the frame and the wall section. Proper clarification and/or correction is required.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brauner (WO 97/39954) in view of Kozacka et al. (#5,950,707) and Boucher-Giles (WO 97/16353).

Brauner teaches a flat or semi-flat element to be used in a collapsible container (See Abstract and Figs. 1-5) including a partly or completely circumambient frame (Page 2, lines 2-5) and an intermediate wall section (Fig. 1, #1), which element is manufactured through molding of a polymeric material (Page 1, lines 27-28), whereby the frame is used as a carrying structure (Page 2, lines 19-21). The frame contains a closed hollow profile (Page 2, lines 2-5) and the frame is connected to the wall at its corner (Figs. 3-4, #7 (Frame) connected to #1 (Wall Section)), thereby being attached at a symmetrical point whereby a gravity center line runs through the connection point and the opposite corner. The closed hollow profile of the frame is formed by injection molding (Page 1, lines 27-28). The thermoplastic material is allowed to solidify closest to the inner wall of the mold so that a barrier is formed before injecting a pressurized fluid to create the hollow profile (Page 2, lines 2-14). (Even though Brauner teaches the method of forming the hollow profile as claimed by the applicant, note that the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation in the applicant's claim has been given little patentable weight.)

Brauner fails to teach a resilient section between the intermediate wall section and the frame as well as a wall section being thinner closest to the connection between the frame and the wall section whereby a pivot line is formed.

Kozacka et al., however, teach the use of a sealing element to place between two substrates that provide an article with flexibility and resiliency so that the sealing element maintains contact with the sealing surface even when the article experiences warping from thermal distortion (See Abstract, Fig. 5B, #82, and Col. 8, lines 13-51).

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Further, Boucher-Giles teaches a plastic-molded collapsible container whereby the wall sections are reduced in thickness by tapering the wall towards the base creating a pivot line such as to allow proper folding of the collapsible container (Page 4, lines 9-19).


Therefore, it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to have modified Brauner to include a resilient section between the intermediate wall and the frame as taught by Kozacka et al. and to have tapered the intermediate wall as taught by Boucher-Giles in order to provide a thermoplastic collapsible container with a resilient section that provides flexibility and resiliency such that the frame and intermediate wall can maintain contact when the container experiences thermal distortion (i.e. expansion or shrinkage) and so that the collapsible container can be properly folded at the pivot line.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian P. Egan whose telephone number is 703-305-3144. The examiner can normally be reached on M-F, 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Y. Pyon can be reached on 703-308-4251. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.


HAROLD PYON
SUPERVISORY PATENT EXAMINER
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2/21/02

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February 21, 2002